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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,787	08/04/2003	David S. Benco	LUTZ 2 00231	6929
7590	12/21/2005		EXAMINER	
Richard J. Minnich Fay, Sharpe, Fagan, Minnich & McKee, LLP Seventh Floor 1100 Superior Avenue Cleveland, OH 44114			LE, DANH C	
			ART UNIT	PAPER NUMBER
			2683	
			DATE MAILED: 12/21/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/633,787	BENCO ET AL.
	Examiner	Art Unit
	DANH C. LE	2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 November 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5-10 and 12-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,5-10,12-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-3, 5-10, 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanson (US 2003/0083067) in view of McGregor (US 2004/0097220).

As to claim 1, Hanson teaches a method for monitoring a roaming charge rate on a mobile station (figure 2), the mobile station being associated with a wireless network and a subscriber to wireless services from a wireless service provider associated with the wireless network the method including the steps:

- a) while the mobile station is located in a current geographic area, determining if the mobile station is roaming;
- b) determining if a roaming charge will be incurred by the subscriber when using the mobile station in the current geographic area; and
- c) communicating a roaming charge rate associated with the roaming charge that would be incurred to the mobile station (paragraph 0057).

Hanson fails to teach determining that roaming charge rate applies to mobile station when the mobile station is entered to the new geographic area. McGregor teaches determining that roaming charge rate applies to mobile station when the mobile

station is entered to the new geographic area (paragraph 009-0010). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of McGregor into the system of Hanson in order to allow the user conditions to be better determined for making or accepting the call with the new rates.

As to claim 2, the combination of Hanson and McGregor teaches the method as set forth in claim 1, between steps a) and b), the method further including:

retrieving at least a portion of an existing service plan between the subscriber and the wireless service provider from a subscriber database (figure 2, 122).

As to claim 3, the combination of Hanson and McGregor teaches method as set forth in claim 2 wherein the retrieved portion includes a roaming charge rate associated with the current geographic area (paragraph 0048).

As to claim 5, the combination of Hanson and McGregor teaches method as set forth in claim 1 (figure 2), further including:

- d) while the mobile station is located in a different geographic area, determining the mobile station is roaming; and
- e) repeating steps b) and c) for the different geographic area while the mobile station is powered up.

As to claim 6, the combination of Hanson and McGregor teaches method as set forth in claim 5 (figure 2), between steps a) and b), the method further including:

retrieving at least a portion of an existing service plan between the subscriber and the wireless service provider from a subscriber database.

As to claim 7, the combination of Hanson and McGregor teaches method as set forth in claim 6 wherein the retrieved portion includes a per-minute roaming charge rate associated with the current geographic area (McGregor, paragraph 0179-0181).

As to claim 8, the combination of Hanson and McGregor teaches the method as set forth in claim 5, step c) further including:

providing a cue to a user associated with the mobile station indicating a new roaming charge rate is displayed on the mobile station (McGregor paragraph 208, the user programs the alert when the approach the new rate).

As to claim 9, the combination of Hanson and McGregor teaches the method as set forth in claim 8 wherein the cue is at least one of an audible cue, an indicator cue, and a vibratory cue (paragraph 0026).

As to claim 10, the combination of Hanson and McGregor teaches the 8 wherein the cue is provided for a predetermined time period (paragraph 0026).

As to claim 12, Hanson teaches the method for monitoring a roaming charge on a mobile station (figure 2), the mobile station being associated with a wireless network and a subscriber to wireless services from a wireless service provider associated with the wireless network, the method including the steps:

- a) while the mobile station is located in a current geographic area, determining the mobile station is roaming;
- b) retrieving at least a portion of an existing service plan between the subscriber and the wireless service provider from a subscriber database;

- c) determining a roaming charge will be incurred by the subscriber when using the mobile station in the current geographic area;
- d) communicating the roaming charge to the home MSC;
- e) while the mobile station is located in a different geographic area, determining the mobile station is roaming; and
- g) repeating steps b) - e) for the different geographic area while the mobile station is powered up.

Hanson fails to teach determining that roaming charge rate applies to mobile station when the mobile station is entered to the new geographic area. McGregor teaches determining that roaming charge rate applies to mobile station when the mobile station is entered to the new geographic area (paragraph 009-0010). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of McGregor into the system of Hanson in order to allow the user conditions to be better determined for making or accepting the call with the new rates.

As to claim 13, the combination of Hanson and McGregor teaches the method as set forth in claim 12 wherein the retrieved portion includes a roaming charge rate associated with the current geographic area (McGregor, paragraph 0028).

As to claim 17, the claim is a system claim of claim 12; therefore, the claim is interpreted and rejected as set forth as claim 12.

As to claim 18, the claim is a system claim of claim 13; therefore, the claim is interpreted and rejected as set forth as claim 13.

As to claim 19, the claim is a system claim of claim 8; therefore, the claim is interpreted and rejected as set forth as claim 8.

As to claim 20, the claim is a system claim of claim 9; therefore, the claim is interpreted and rejected as set forth as claim 9.

Response to Arguments

Applicant's arguments filed 11/25/05 have been fully considered but they are not persuasive.

On page 6 of the Applicant's remarks, the applicant's argues that neither Hanson nor McGregor teaches a roaming charge rate to a mobile station upon determining that the roaming rate applies to the mobile station upon entering the new roaming area.

In response, the examiner believes that McGregor teaches a roaming charge rate to a mobile station upon determining that the roaming rate applies to the mobile station upon entering the new roaming area (on paragraph 0009, 0010).

On page 6 of the Applicant's remarks, the applicant's argues that Hanson does not teach a roaming charge rate to a mobile station and does not displaying a roaming charge rate on a display associate with the mobile station.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

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In this case McGregor teaches a roaming charge rate to a mobile station and displays a roaming charge rate on a display associate with the mobile station as citing above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANH C. LE whose telephone number is 571-272-7868. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

danh

December 16, 2005
DANH CONG LE
PATENT EXAMINER